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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,930	12/17/2003	Steven E. Lenda	CFC-124-A	8474
22825	7590	12/16/2005	EXAMINER	
WILLIAM M HANLON, JR YOUNG & BASILE, PC 3001 WEST BIG BEAVER ROAD SUITE 624 TROY, MI 48084-3107			RUDDOCK, ULA CORINNA	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/738,930

Applicant(s)

LEND A ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's response filed October 31, 2005. The rejection of claims 14-23 has been maintained. The 112, 2nd paragraph rejection and the rejection of claim 13 have been overcome by the present amendment. However, after an updated search, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Juriga (US 5,536,556). Juriga discloses an insulating laminate for vehicles comprising a spunbonded polyester scrim (col 5, ln 62-64) and a foam layer (col 5, ln 49-50). Please see Figure 2, reference points 36 and 38.
4. Claims 14, 15, 17, 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 5,298,694). Thompson et al. disclose an acoustical insulating web and a method for attenuating sound waves comprising a laminate of a nonwoven insulation web comprising thermoplastic fibers and a scrim layer. The laminate is adapted to be applied to the inner panel of a vehicle door (abstract). The nonwoven web comprises thermoplastic fibers and the scrim is a spunbond nonwoven scrim material, which will promote the integrity of the laminate (col 7, ln 41-46).

Although applicant has amended the claims to include a "consisting of" limitation, the overall claim is still written in open language (i.e. comprising). Therefore, the shield can

still include additional components. Therefore, the Thompson et al. still reads on the claimed invention.

Rejection is maintained.

Claim Rejections - 35 USC § 102/103

5. Claim 18 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thompson et al. (US 5,298,694), as shown above. Thompson et al. Disclose the claimed invention except for the teaching that the first layer has an air permeability greater than zero. While Thompson et al. fails to disclose the claimed air permeability, it is reasonable to presume that said air permeability property is inherent to the Thompson et al. invention. Support for said presumption is found in the use of like materials (i.e. nonwoven spunbonded scrim and a nonwoven pad). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of an air permeability greater than zero would obviously have been present once the Thompson product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977), as to the providing of this rejection made above under 35 USC 102.

Rejection is maintained.

Claim Rejections - 35 USC § 103

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 5,298,694), as shown above, in view of Klaff (US 4,608,298). Thompson et al. Disclose the claimed invention except for the teaching that the scrim comprises a polymeric apertured film.

Klaff (US 4,608,298) disclose a weather resistant and insulating textile comprising a thin film of perforated chemical resistant polymer (col 4, ln 1-10). It would have been obvious to one having ordinary skill in the art to have used Klaff's perforated film as the scrim in Thompson et al., motivated by the desire to create a laminate having increased resistance to water and/or chemicals.

Rejection is maintained.

7. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 5,298,694) in view of Potts et al. (US 5,149,576). Thompson et al. disclose the claimed invention except for the teaching that the nonwoven scrim is formed as a spunbond-meltblown-spunbond trilaminate and that the laminate further comprises a fluorocarbon or silicone additive.

Potts et al. (US 5,149,576) discloses a nonwoven laminiferous structure comprising two adjacent nonwoven layers and a scrim layer interposed therebetween (col 9, ln 3-9). An additive can be added to the laminate, including siloxane containing compounds (col 10, ln 24-28) and fluorine containing materials (col 12, ln 61-63). The laminate can comprise an SMS structure (col 16, ln 32-34). It would have been obvious to one having ordinary skill in the art to have used Potts' SMS structure as the scrim in Thompson et al., motivated by the desire to create a composite that couples the barrier properties of the meltblown web with the strength and abrasion resistance of spunbonded webs (col 16, ln 63-66). It also would have been obvious to have used the siloxane or fluorine containing additives of Potts on the web of Thompson, motivated by the desire to create web having water-wettability, antistatic properties, and alcohol repellency.

Rejection is maintained.

Response to Arguments

8. Applicant's arguments filed October 31, 2005, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that the Thompson references fails to teach or suggest a laminate that consists of a first layer and a second layer. This argument is not persuasive because although the laminate has been limited to a first and second layer, the shield still reads on open language, i.e. comprising. Therefore, the claims, as currently written, do not preclude the use of additional layers, as taught by the Thompson reference.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *UCR*

Ula Ruddock
Ula C. Ruddock
Primary Examiner
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